



GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT JAMMU/KASHMIR

Subject: CP No. 228/2022 in O.A No. 61/614/2022 titled Abdul Bashir and Anr Vs Alok Kumar & anr.

Government Order No. 156 - JK (Edu) of 2024.
Dated: 04 - 03 - 2024.

Whereas, the applicants Sh. Abdul Bashir & Anr have filed, original application before the Hon'ble Central Administrative Tribunal at Jammu wherein prayed as an under:-

- i. Commanding the respondents to regularize the services of the applicants as Headmaster retrospectively with effect from the date they were promoted as Incharge Headmaster with all consequential benefits and also to settle their pension accordingly and to release the arrears of their salary w.e.f the date of their promotion till their retirement as also the arrears of pension w.e.f their retirement till the actual payment.

Wherein, the Hon'ble Central Administrative Tribunal vide its order dated 04.07.2022, has disposed of original application with the following direction:-

".....On Consideration of the above submissions of the counsels for both the parties, this O.A is disposed of at admission stage, without expressing any opinion on merits of the case, directing the respondents to consider the pending representation of the applicants, which was recommended by the Chief Education Officer in 2018, as per provisions of relevant rules and binding instructions on the subject for retrospective appointment on substantive basis on posts of Headmasters and decide it with a reasoned order within six weeks from the date of receipt of a certified copy of this order and within one week thereafter to communicate it to the applicants".

Whereas, in compliance to the directions of the Hon'ble Central Administrative Tribunal Jammu, the case of the applicants were examined in the Department and it has been found that the name/particulars along with integrity certificate as well as complete posting details of Abdul Bashir Retd ZEPO Mandi has already been submitted to the Administrative Department for regularization vide No. DSEJ/GAZ/2020/8814 dated 06.03.2021 and the name of officer stands at S No. 733. Further, the particulars of Mohd Shafi, Ex-Headmaster, HS Saloonia has also been submitted to the Administrative Department for regularization vide No. DSEJ/Gaz/12191 Dated 05.06.2017 and the name of the officer stands at S. No. 195;

Whereas, during examination of the case of the applicants, it has been observed that vide Government Order No. 43-JK (Edu) of 2023 dated 15.02.2023, updated/final inter-seniority of Masters (worked/ working as incharge Headmasters) was issued by the Department. The applicants are figuring at Sty. No. 54 and 211 respectively and as per the issuance of the said seniority list, the service particulars of the applicants are given below:

Ant

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Sty. No.	Name	Place of posting	D.O.B.	D.O.R.	Date of 1st apptt.	Date of promotion as Master	Date of prom. As I/c HM
54	ABDUL BASHIR (RBA)	ZEPO MANDI	19-06-48	30-06-06	19-07-65	04-04-86	17-07-03
211	MOHD SHAFI (RBA)	HS SALOONIA	20-08-51	31-08-09	22-10-79	26-07-95	11-10-08

Whereas, as per minutes of DPC meeting, which was held on 26.6.2012, 2533 I/c Headmasters & equivalent were cleared for regularization against 2533 vacancies available in the cadre w.e.f. 09/1999 upto 01.12.2011 from the dates vacancy had fallen vacant. Besides, another DPC with regard to regularization of Incharge Headmasters as Headmasters was held on 16.05.2023 wherein 3895 Incharge Headmasters were regularized as Headmasters on the available vacancies till 31.12.2022;

Whereas, as per the eligibility list of the above said DPC, meeting held on 16.05.2023, regularization of Masters (worked/working as Incharge Headmasters) as Headmasters & equivalent, the applicants stand at seniority No. 54 & 211 as per below details:

Sty. No	Name	Place of Posting	DOB	DOR	Date of apptt. as Teacher	DOP as Master	Date of eligibility for promotion as I/c HM	Date of promotion as I/c HM & equivalent	Cause of vacancy	Date of regularization as HM
50	Sonam Tsomo (ST) (Sr. counterpart)	MS Leh	10.03.62	31.03.22	31.10.81	16.11.85	16.11.88	23.06.09	Due to promotion of Bhim Sain as ZEO at Sty. No. 53 on 30.06.2008 vide G.O.No.93-JK (Edu) of 2023, dated 12.04.2023	Regular w.e.f. 01.12.2011 upto Date of Retirement
54	Abdul Bashir (RBA) (Applicant)	ZEPO Mandi	19.06.48	30.06.06	19.07.65	04.04.86	04.04.89	17.07.03	Retired before accrual of vacancy.	
210	Ajaz Ahmad (Sr. counterpart)	GHS Khalotrian	10.02.55	28.02.13	27.09.78	26.07.95	26.07.98	22.06.09	Due to promotion of Hafizullah Salaria as ZEO at Sty. No.62 on 01.07.2008 vide G.O.No.93-JK (Edu) of 2023, dated 12.04.2023	Regular w.e.f. 01.12.2011 upto Date of Retirement
211	Mohd Shafi (RBA) (Applicant)	HS Saloonia	20.08.51	31.08.09	22.10.79	26.07.95	26.07.98	11.10.08	Retired before accrual of vacancy.	

Whereas, the applicants have retired before accrual of vacancies and Sr. counterparts were regularized as Headmasters regular w.e.f. 01.12.2011 in the said DPC;

Whereas, the Department has regularized the said officers from the date, they had actually held the post of Incharge Headmaster in capacity in terms of the Government Order No. 743-GAD of 2007 dated 28.06.2007 issued by the GAD, which provides as under:

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"Promotion of a Government employee shall take effect from the date, he has been formally put incharge of the higher post, subject to his eligibility in accordance with the recruitment rules and availability of the vacancy. His clearance/ regularization shall take effect from the date of his placement against the higher post or availability of vacancy or the date of his eligibility, whichever is later. In all other cases, the promotion of a Government employee to the next higher post shall take effect from the date of issuance of the order." In view of the aforementioned stated position, the regularization of the officers was considered in light of the aforementioned Government order by the DPC."

Whereas, as per the information available in the Department, two DPCs meetings in the said service/cadre were held on 26.6.2012 and 16.05.2023 and the vacancies were utilized till 31.12.2022. The Department has already utilized all the vacancies till 31.12.2022 and the DPCs were conducted as per Government Order No. 743-GAD of 2007 dated 28.06.2007 issued by the General Administration Department and the applicants have retired before accrual of substantive vacancy;

Now therefore, keeping in view, the facts and circumstances of the case and in compliance to the directions of the Hon'ble Central Administrative Tribunal order dated 04.07.2022 passed in O.A No. 61/614/2022 titled Abdul Bashir and Anr. Vs UT of J&K and others, the claim of the applicants has been considered in the Department and being not tenable under rules is hereby rejected.

By order of the Government of Jammu & Kashmir.


Sd/-
(Dr. Piyush Singla) IAS
Administrative Secretary,
School Education Department.

No: Edu-LGL0Jmu(CAT)/153/2022-01

Dated: 04.03.2024.

Copy to the:-

1. Joint Secretary (J, K & L) Ministry of Home Affairs, Government of India.
2. Director School Education Jammu for information and necessary action.
3. OSD with Advisor (B) to the Lieutenant Governor, UT of J&K for information.
4. P.A to Administrative Secretary, School Education Department for information.
5. Concerned Ld. AAG, Hon'ble CAT at Jammu for information.
6. Abdul Bashir & Mohd Shafi (Applicants) for information.
7. I/c Website for uploading the same on official website.
8. Government Order File/ Stock file (w.2.s.c).


(Masood Ahmad Wani)
Deputy Secretary to the Government.

